



U.S. OFFICE OF SPECIAL COUNSEL

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October 18, 2012

Mr. Michael A. Brown, Sr.
700 South Rodney Street
Wilmington, DE 19805

VIA U.S. Mail & Email: mbrown@connectionscsp.org

Re: OSC File No. HA-12-3831

Dear Mr. Brown:

The Office of Special Counsel received a complaint containing allegations that you engaged in activities prohibited by the Hatch Act. Specifically, it was alleged that the Act prohibits your current candidacy for reelection to city council in Wilmington, Delaware. We understand you are employed as an outreach worker at Connections CSP, Inc., a private, nonprofit organization. As explained below, you are not subject to the Hatch Act's restrictions. Therefore, the Act does not prohibit you from being a candidate in a partisan election.

The Hatch Act, 5 U.S.C. §§ 1501-1508, restricts the political activity of individuals principally employed by state, county, or municipal executive agencies in connection with programs financed in whole or in part by loans or grants made by the United States or a federal agency. It has long been established that an officer or employee of a state or local agency is subject to the Hatch Act if, as a normal and foreseeable incident of her principal position or job, she performs duties in connection with an activity financed in whole or in part by federal funds. In re Hutchins, 2 P.A.R. 160, 164 (1944); Special Counsel v. Gallagher, 44 M.S.P.R. 57 (1990). Coverage is not dependent on the source of an employee's salary, nor is it dependent upon whether the employee actually administers the funds or has policy duties with respect to them. See Special Counsel v. Williams, 56 M.S.P.R. 277, 283-84 (1993), aff'd, Williams v. Merit Sys. Prot. Bd., 55 F.3d 917 (4th Cir. 1995). An employee covered by the Act may not, among other things, be a candidate for public office in a partisan election, i.e., an election in which any candidate represents, for example, the Republican or Democratic Party. 5 U.S.C. § 1502(a)(3).

We understand that Connections CSP is a private, nonprofit entity organized in accordance with § 501(c)(3) of the Internal Revenue Code. Generally, the Hatch Act does not restrict the political activities of officers or employees of private, nonprofit organizations. However, the Act may apply to officers or employees of such an organization if the statute through which the organization derives its federal funding contains a provision stating that recipient organizations are deemed state or local government agencies for purposes of the Hatch Act. To date, the only grant-related federal statutes containing the requisite provision are the statutes authorizing the Head Start and Community Services Block Grants (CSBG).

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According to Catherine McKay, Connections CSP does not receive the Head Start grant but does receive CSBG funds. However, you do not have duties in connection with any activities financed by CSBG funds. Consequently, you are not subject to the restrictions of the Hatch Act, and the Act does not prohibit you from being a candidate in a partisan election. We are closing our file in this matter.

[REDACTED]

Sincerely,

A handwritten signature in black ink, appearing to read "A. Galindo-Marrone". The signature is fluid and cursive, with the first name "Ana" and last name "Marrone" being clearly distinguishable.

Ana Galindo-Marrone
Chief, Hatch Act Unit